

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN DOE and JANE DOE, Individually and on behalf of
M.S. an Infant, as Next Friends,

Plaintiff,

-v-

JOSEPH LIMA, Bureau Chief of the Manhattan
VI Area Office of the New York State Division of Parole;
Parole Officer EMILY SCOTT; Parole Officer SIMON
VALERIO; Senior Parole Officer RICHARD ROSADO;
and Senior Parole Officer JAMES CAPPIELLO,

Defendants.

14 Civ. 2953 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court today held a conference with counsel to address the status of the settlement process in this case, in which defendants' liability has been established and upheld by the United States Court of Appeals for the Second Circuit and the sole outstanding issues to be tried are the damages due to each of the three plaintiffs. The Court did so having been informed by the Honorable James L. Cott, United States Magistrate Judge, that final approval has not been received from the New York State Department of Corrections and Community Supervision ("DOCCS") and the Office of the New York Attorney General ("NYAG") of the settlement terms reached in November 2020 under Judge Cott's oversight after extensive discussions with counsel for all parties, including representatives of DOCCS and the NYAG.

At the conference, it became apparent that the Court's personal intervention is necessary to assure that appropriate and urgent attention is given to this matter by decision-makers at DOCCS and the NYAG, as it has been more than three months since the settlement was first

reported to the Court, and more than two months since the settlement was submitted for approval to state decision-makers. In particular, it appears that state decision-makers may not appreciate the possibility—absent a settlement—of a prevailing-party fee award in this case under 42 U.S.C. § 1988 that, independent of any damages award by the jury, could quite significantly outstrip the amount of the negotiated settlement.

The Court accordingly schedules a conference in this case for **March 9, 2021, at 10:30 a.m.**, in courtroom 1305 at the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, NY, 10007, for the purpose of discussing settlement. To assure that the conference is effective, the Court orders that the following four persons attend the conference **in person**: (1) plaintiffs' counsel Blair Albom, Esq.; (2) either Lawrence Henry Schaefer, Esq., or another of the counsel for the individual defendants, with authority to speak for all; (3) Cathy Sheehan, Esq., of DOCCS, whom the Court understands to be DOCCS's acting deputy commissioner; and (4) a representative of the NYAG with responsibility for this case and who holds the position of bureau chief or higher. All other counsel are to participate telephonically. Those counsel, and members of the public who wish to attend this conference, should call (888) 363-4749 and enter access code 468-4906, followed by the pound (#) sign. All in-person participants will be required upon appearance at the courthouse to satisfy the District's protocols for entry. These are available at <https://www.nysd.uscourts.gov/covid-19-coronavirus>, and in Standing Order 21 Misc. 164, available at that link. All in-person participants are to promptly review these protocols to assure that, on March 9, 2021, they will be able to gain entry to the courthouse.

To assure that notice of this conference is promptly received by the DOCCS and NYAG participants, the Court orders Mr. Schaefer today, by email, to serve this order on Ms. Sheehan of DOCCS and the representatives of the NYAG with whom settlement discussions have been

held, and thereafter to file a letter on the docket of this case confirming that receipt of these emails has been acknowledged.

In the event that the settlement agreement reported to the Court has received final approval before March 9, 2021, the Court will adjourn the conference. It will otherwise go forward as scheduled.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: February 26, 2021
New York, New York